

Reply to Office Action  
Serial Number 10/692,967  
Customer No.: 33354

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## REMARKS

### A. Status of Claims

Claims 1-20 have been cancelled. Claims 21-40 have been added and are currently pending.

### B. Amendments to the Specification

Applicants have amended the specification to correct minor errors in paragraphs [0001] and [0015] and to more clearly describe what Applicants regard as their invention.

### C. Telephone Interview

Applicants would like to thank the Examiner for his time and helpful comments with Applicants' representatives during the telephone interview on June 8, 2005. During that interview, the Examiner and Applicants' representative discussed certain claim amendments to overcome the §102 rejections made in light of U.S. Patent No. 3,845,804 to Romberg and U.S. Patent No. 4,466,129 to Dobson. The Examiner and Applicants' representatives agreed that amending the claims to recite a limitation of a glass sheet that covered the planar barrier would overcome the rejections based on Romberg and Dobson.

The Examiner and Applicants' representatives agreed that amending the claims to recite a limitation of a ceiling and floor whereby the planar barrier

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moved in a plane between the ceiling and the floor would overcome the rejections based on Romberg and Dobson.

Finally, Applicants' representative and the Examiner agreed that that traction gate disclosed by Romberg is incapable of operating in a plane in the same manner as Applicants' invention. Specifically, Ms. Etherton commented to the Examiner that the barrier of the present invention is able to operate within a plane since the barrier is an accordion-like barrier sheet constructed of several strips connected to each other using rivets. See paragraph 0017 of the specification. In contrast, the traction gate of Romberg is unable to operate in a plane as the individual wires are individually hinged and therefore must be swung laterally outward to be opened. See Romberg column 3, lines 1-3.

Applicants carefully reviewed the pending claims in light of the interview and determined that amending them in the manner suggested in the interview would result in claims that are not as clear as desired. Therefore, for clarity, Applicants have cancelled claims 1-20 and are submitting new claims 21-40 herewith. No new matter is added in these additional claims as the proper antecedent basis in the specification exists as noted below. Because claims 1-20 are cancelled, the §102 rejections of those claims is moot.

Applicants believe that newly submitted claims 21-40 are all patentable over Romberg and Dobson as described below.

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#### **D. New Claims 21-30**

Independent claim 21 is similar to cancelled claim 1, but it includes the limitation of a frame with top, bottom, and two side portions as supported in the specification in Figs. 3-4. Neither Romberg nor Dobson disclose a device with a frame that has top and bottom portions. Dobson fails to disclose any type of frame and while the fence posts in Romberg could be interpreted as side portions, Romberg fails to disclose a frame with top and bottom portions. Dependent claim 22 further defines the top and bottom portions of the frame as a ceiling and floor as supported in the specification in Fig. 3. Dependent claims 23-25 and 28 include the limitation of a barrier sheet such as a glass pane attached to the frame as supported in the specification at paragraph 18. Therefore, claims 21-30 are believed to be patentable over Romberg and Dobson and the Examiner is respectfully requested to allow these claims.

#### **E. New Claims 31-39**

Independent claim 31 includes the limitation of a planar, accordion barrier sheet that is operable in a plane as supported in the specification in Fig. 3. As discussed in the interview, the traction gate of Romberg is incapable of operating in a plane as it must swing laterally outward to open. Additionally, the device disclosed by Dobson does not operate in a plane. Therefore, claim 31 and its dependencies (claims 32-39) are believed to be patentable over Romberg and Dobson. The Examiner should also note that claims 34 and 35 include a limitation of two barrier sheets (claim 35 limits the barrier sheets to glass) that attach to the frame and prevent access to the planar, accordion barrier sheet as

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supported in the specification at paragraph 18. Therefore, newly added claims 31-39 are believed to be patentable over Romberg and Dobson and the Examiner is respectfully requested to allow these claims.

**E. New Claim 40**

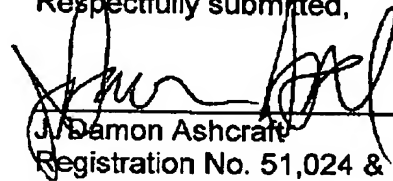
Claim 40 includes a limitation of an opening comprising a top ceiling portion and a bottom floor portion. Claim 40 also includes a limitation of two glass sheets. Both these limitations were discussed in the interview and the Examiner acknowledged that either of these limitations would distinguish the claims from Romberg and Dobson. Therefore, the Examiner is respectfully requested to allow claim 40 as well.

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**BEST AVAILABLE COPY****CONCLUSION**

Applicants respectfully submit that all rejections are moot and that the new claims are patentable as discussed during the interview. Applicants respectfully request that the Examiner allow the application to proceed to allowance. If the Examiner has any questions or suggestions to place the application in even a better condition for allowance, he is requested to call Damon Ashcraft at 602-681-3331.

Respectfully submitted,



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